



Fuel Taxes Newsletter

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■ All Fuel Tax and Fee Programs

1. New legislation takes effect

The following summaries reflect legislative changes enacted during the 2002 legislative session affecting the fuel tax programs administered by the Board of Equalization. The changes are effective January 1, 2003, unless otherwise indicated.

For copies of bills, please write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. Or you can download information from www.leginfo.ca.gov/bilinfo.html.

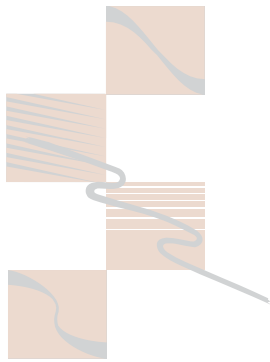
Multiprogram

Offers in compromise. Assembly Bill 1458 (Stats. 2002, ch. 152) provides the Board with the administrative authority to accept offers in compromise on a final tax liability under the Use Fuel Tax Law and on a final fee liability under the Underground Storage Tank Maintenance Fee Law. The new law also authorizes the Board to allow for relief of interest for failure to make a timely return or payment due under the Fee Collection Procedures Law due to a disaster. *See also page 4 for information on offers in compromise.*

Electronic returns. Assembly Bill 1936 (Stats. 2002, ch. 459) authorizes the Board to accept Special Taxes program returns by electronic media and prescribe the method of authenticating a return, and clarify information to be reported under the Diesel Fuel Tax Law, Motor Vehicle Fuel Tax Law, Underground Storage Tank Maintenance Fee Law, Use Fuel Tax Law, Childhood Lead Poisoning Prevention Fee Law, and Oil Spill Response, Prevention and Administration Fees Law.

Oil Spill Response, Prevention and Administration Fees Law

Fee increase to take effect January 20, 2003. Assembly Bill 849 (Stats. 2002, ch. 514) authorizes the Administrator of oil spill response (the chief deputy director for the Department of Fish and Game) to set the Oil



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Spill Prevention and Administration Fee at a maximum of 5 cents per barrel of crude oil or petroleum products (the previous maximum was 4 cents per barrel). The Administrator has set the fee at 5 cent per barrel, effective January 20, 2003.

■ International Fuel Tax Agreement (IFTA) and Interstate User Diesel Fuel (DI) License

2. Rate decrease for interstate users of diesel fuel

For calendar year 2003, California's interstate user tax will decrease from 28.2 cents per gallon, to 26.3 cents per gallon. Most interstate motor carriers who travel on California highways pay the tax through the International Fuel Tax Agreement. Carriers who travel only between California and Mexico (DI licensees) also pay the interstate user tax.

The 26.3 cents per gallon interstate user tax rate is a combination of two amounts:

- 18 cents per gallon, which is the same as the per gallon rate for diesel fuel tax, plus
- 8.3 cents per gallon, which is equal to 7.25 percent of the average retail price of motor vehicle fuel sold in California.

Credits and Refunds

Credits. Motor carriers who report and pay the interstate user tax on their IFTA or DI Tax Return can claim a credit of the 26.3 cents per gallon interstate user tax for diesel fuel purchased in California—whether or not the fuel is used in California.

Refunds. Motor vehicle carriers can claim a refund of the diesel fuel tax portion of the interstate user tax (18 cents per gallon) for diesel fuel used for nontaxable purposes in California (such as off-highway use).

■ Motor Vehicle Fuel Tax and Diesel Fuel Tax Programs

Both programs

3. Progress in E-Filing

By next spring, e-filers will be able to use a variety of applications to file their returns and reports using a "flat file format."

A flat file is a file format that can be made using a programming language, database,

word processing, or spreadsheet application. A sample Microsoft Excel template will be available on our website.

We are finalizing a flat file layout for the following tax forms:

- BOE-501-PS, Supplier of Motor Vehicle Fuel Tax Return
- BOE-501-DD, Supplier of Diesel Fuel Tax Return
- BOE-501-DB, Exempt Bus Operator Diesel Fuel Tax Return
- BOE-506-PO, Terminal Operator Information Report
- BOE-506-PC, Vessel/Pipeline Operator Report (Common Carrier Summary Report)
- BOE-770-DU, Diesel Fuel Claim for Refund on Nontaxable Uses
- BOE-770-DV, Diesel Fuel Ultimate Vendor Report/Claim for Refund
- BOE-770-DVW, Diesel Fuel Ultimate Vendor Weekly Claim for Refund
- BOE-770-DZ, Claim for Refund on Nontaxable Sales and Exports of Diesel Fuel

If you are interested in participating in e-filing, contact us at 916-323-9669 or e-mail us at efile@boe.ca.gov. It should be noted that e-filing participants must make tax or fee payments through electronic funds transfers.

For information about currently accepted e-filing formats and tax forms go to our website at www.boe.ca.gov/electsrv/efiling/taxpcont.htm.

4. 2002 Regulatory Changes

Unless otherwise indicated, the following regulatory changes took effect July 11, 2002.

Except for Regulation 1434, the following regulatory changes are the result of the passage of AB 2114 (Stats. 2000, ch. 1053) and AB 309 (Stats. 2002, ch. 429).

Diesel Fuel Regulations

- 1413 Tax-paid Diesel Fuel and Ex-tax Diesel Fuel (revised)
- 1420 Supplier (revised)
- 1422 Relief From Liability (revised)
- 1430 Shipments out of State (revised)
- 1434 Sale of Diesel Fuel to the United States and Its Agencies and Instrumentalities (new, effective June 12, 2002)
- 1435 Tax paid Twice on Diesel Fuel (new)
- 1436 Returned Sales (new)

Motor Vehicle Fuel Regulations

- 1101 Motor Vehicle Fuel (revised)
- 1103 Blending or Compounding (repealed)
- 1104 Consignment for Sale (repealed)
- 1105 Tax-paid Fuel and Ex-tax Fuel (revised)
- 1106 Tax-paid Fuel Distributed (repealed)
- 1107 Drip Gasoline Producer (repealed)
- 1108 Qualified distributor (repealed)
- 1111 Highway (revised)
- 1114 Book Transfer, in-Tank Transfer, Physical Exchanges and Settlement (repealed)
- 1115 Pipeline Overages and Shortages (repealed)
- 1116 Losses Prior to Distribution (repealed)
- 1117 Allowable Losses of Commission Agents (repealed)
- 1118 Distribution of Commingled Fuel (repealed)
- 1119 Tax-paid Motor Vehicle Fuel Blended, Compounded or Redistilled (repealed)
- 1120 Returned Sales (revised)
- 1121 Temperature Corrected Distributions (repealed)
- 1122 Conversion Factor (revised)
- 1123 Supplier (new)
- 1124 Relief From Liability (new)
- 1131 Natural Gasoline Sales to Licensed Distributors (repealed)
- 1132 Shipments out of the State (revised)
- 1133 Exempt Distributions to a Qualified Distributor (repealed)
- 1134 Sales to the United States (revised)
- 1137 Exempt Sales of Jet Fuel (revised)
- 1151 Monthly Return of Distributor (repealed)
- 1152 Weekly Return of Distributor (repealed)
- 1153 Processor's Return of Distribution (repealed)
- 1154 Owner's Return of Processing Transactions (repealed)
- 1155 Recipient's Return of Processing Transactions (repealed)
- 1161 Tax Paid Twice on Motor Vehicle Fuel (new)
- 1171 Distributor's Inventory and Stock Record (repealed)
- 1172 Producer's Stock Record (repealed)
- 1173 Producer's Purchase Record (repealed)

- 1174 Producer's Sales Record (repealed)
- 1175 Broker's Purchase Record (repealed)
- 1176 Broker's Sales Record (repealed)
- 1177 Records of Aircraft Jet Fuel Dealer (revised)
- 1178 Records (new)

5. Is ethanol a reportable product for Suppliers of Motor Vehicle Fuel?

Pure ethanol does not need to be reported on your Supplier of Motor Vehicle Fuel Tax Return. However, blends of ethanol and gasoline may be reportable.

You must report ethanol/gasoline blends if the gasoline portion of the blended product exceeds 15 percent (the resulting product is considered motor vehicle fuel). If the gasoline portion is 15 percent or less, the blended product is not considered a motor vehicle fuel and is subject to the Use Fuel Tax Law.

You must report the ethanol portion of the qualifying ethanol/gasoline blend on Schedule 5W (formerly Schedule 5T), "Untaxed Products Blended With, or Added to Fuel, Resulting in a Product Which is Used as, or is Usable as a Taxable Fuel" on your Supplier of Motor Vehicle Fuel Tax Return.

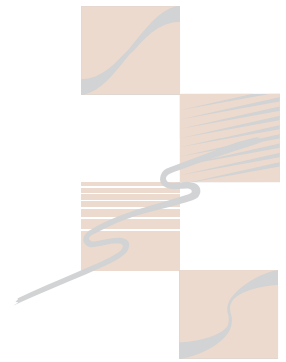
6. Paper filers – Please help us out

We have received a request for HELP from our key data entry staff. They are the ones who key all those entries made for tax returns and schedules. They do their best, but sometimes it is very hard to read all the entries that come across their desks. For that reason, they would appreciate it if everyone would try to use a readable font size when they prepare their documents. For example, 10 point Arial is a very readable font and is a great help. In fact, Arial 10 is preferred by our key data section. Remember, readable entries help minimize problems with payment processing.

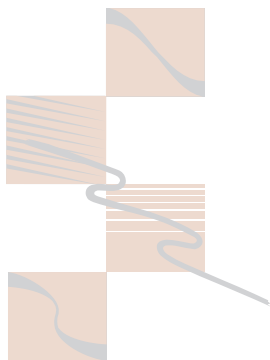
Diesel fuel tax program only

7. You can file nontaxable use claims on an estimated basis

If you pay diesel fuel tax and subsequently use the fuel in a nontaxable manner, you may file a claim for refund of the tax paid. Documenting the amount of fuel used in a nontaxable manner is difficult, especially when there is a combination of taxable and nontaxable use. In such cases, claims for refund based on estimated nontaxable use



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nontaxable use. In such cases, claims for refund based on estimated nontaxable use may be filed, so long as the estimate is supported by verifiable test data.

Verifiable test data is documentation that establishes that the estimate claimed represents average nontaxable use for the vehicles in the activity tested. There is no required format; however, the test documents must show that a sufficient number of units were tested and must demonstrate how the estimate was calculated.

If you have questions regarding estimated claims, please contact the Fuel Taxes Division.

8. Exemption certificate requirements for exempt bus operators

Operators who use undyed fuel in both exempt and nonexempt operations must let the supplier know when and when *not* to charge tax. This may be done by using separate purchase orders or by providing a percentage exemption certificate. Exemption certificates must be in a form prescribed by the Board. The prescribed form for an exempt bus operator is BOE 213-DB, *Diesel Fuel Tax Exemption Certificate for Exempt Bus Operators*. Certificates must be renewed annually with your supplier.

9. Biodiesel is taxed as diesel fuel

Biodiesel is by definition diesel fuel. It is a clean burning alternative fuel, produced from domestic, renewable resources. Biodiesel can also be blended at any level with petroleum diesel to create a biodiesel blend. It can be used in compression-ignition (diesel) engines with no major modifications. Biodiesel, in any concentration, is diesel fuel and is taxable exactly like traditional diesel fuel. Also, the same exemptions that apply to diesel fuel apply to biodiesel. Any supplier of biodiesel is required to hold a valid Supplier of Diesel Fuel license as required by section 60033 of the Revenue and Taxation Code (Diesel Fuel Tax Law) and report and pay the diesel fuel tax.

■ Underground Storage Tank Maintenance Fee (UST)

10. Offers in compromise

Recent legislation, effective January 1, 2003, allows the Board to accept offers in compromise for the UST fee (Assembly Bill 1458, Stats. 2002, ch. 152).—Editor

An offer in compromise is a proposal to pay the Board a specified amount that is less than the full fee liability on a *closed account*. If you make an offer, you must no longer be associated with the business that incurred the liability and must not dispute the amount of the liability. When making the offer, you must show that you cannot pay the full amount you owe in a reasonable amount of time.

If the Board accepts your offer in compromise, they will contact you in writing and ask for full payment of the proposed amount. You may also be asked to pay court fees required for a stipulated judgment. These amounts must be paid in full before final evaluation of your offer.

After the above payments are made, the Board and the Attorney General's Office will review your offer. If your offer is approved, you will be notified in writing and any liens the Board holds on your assets will be released. If denied, a course of action based on your particular situation will be recommended.

If you wish to learn more, please refer to publication 56, *Offers in Compromise*. It is available online at www.boe.ca.gov/sptaxprog/sptaxpubs.htm. You may also call our Information Center to request a copy.

Sidelights

Ethics at work—"thank you" is enough. During the holiday season, many businesses offer gifts to their customers, suppliers, and others with whom they do business. We must ask, however, that you not extend your generosity to our employees. A simple "Thank You" or "Happy Holidays" will have to do—and will be much appreciated. Board policy prevents our employees from accepting gifts of any type.

Trying times. Some observers have noted that civility is decreasing in our society as our lives become more complex. We know that you may find yourself frustrated with the difficulties of the tax law or pressed for time when you're dealing with our staff. Still, we ask that you treat our employees just as you would like to be treated in a business situation. Any statement made to a Board employee that seems remotely like a threat—even a statement made in jest—will be referred to our Internal Security and Audit Division for investigation.

Fuel Taxes Division

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Internet

www.boe.ca.gov

Tax Evasion Hotline

888-334-3300

Legislation

www.leginfo.ca.gov.

Taxpayers' Rights Advocate

888-324-2798
www.boe.ca.gov/tra/tra.htm